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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,183	02/08/2001	Eric Ellington	OAA-145-A	6456

21828 7590 04/08/2004

CARRIER BLACKMAN AND ASSOCIATES  
24101 NOVI ROAD  
SUITE 100  
NOVI, MI 48375

EXAMINER

FISCHMANN, BRYAN R

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/779,183

Applicant(s)

ELLINGTON, ERIC

Examiner

Bryan Fischmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-14, 16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14, 16 and 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Acknowledgements***

1. The amendment (paper 20) filed 12-22-2003 has been entered based on the request for an RCE below.

***Request for Continued Examination***

2. The request filed on 12-22-2003 (paper 18) for a Request for Continuing Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/779,183 is acceptable and an RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 185***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 185 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

any person, and his successors, assign, or legal representatives shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this title, have made, or consented to assisted another's making, application in a foreign country for a patent for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such person, his successors, assigns, or legal representatives shall be invalid, unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.

4. Claims 1-9, 11-14, 16 and 18-25 are rejected under 35 U.S.C. 185 as being unpatentable.

Note that the Applicant filed a foreign application in Japan on 7-24-2000 for the Instant Invention before filing in the US on 02-08-2001, apparently with the required license under 35 USC 185 and 184.

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Note: If it is Applicant's position that such license is not required, it is requested that the Applicant state the reasons why in writing.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema, et al, US Patent 4,848,781, in view of Andrew, et al, US Patent 4,320,905.

Dykema teaches an elevated deck snowboard for sliding over snow, comprising:  
an elongated slide board (16) having a slide surface on a lower surface thereof  
and having a defined length;

an elongated step board (24) defining a deck on an upper surface thereof which  
is capable of freely accommodating both feet of a user, said step board having  
peripheral edges; and

a plurality of connecting members (Figure 6) non-integrally connecting the step  
board to an upper surface of the slide board in spaced and substantially parallel  
relationship (when the board is not in use), the connecting members being disposed  
inwardly of the peripheral edges of the slide and step boards (see drawing figures);

where open spaces are defined between the peripheral edges of the boards (see  
drawing figures).

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Dykema fails to explicitly state that the connecting members space the step board upwardly from the slide board by a distance which is greater than the combined thickness of the two boards. Dykema appears to teach that the "distance" is approximately equal to the thickness of the two boards.

However, Andrew teaches an elevated deck snowboard where the distance between the slide and step board exceeds the thickness of the two boards (Figure 1). An elevated deck snowboard where the distance between the slide and step boards exceeds the thickness of the two boards is advantageous in that the larger distance between the two boards facilitates maneuvering and lessens the possibility of the step board contacting a ground surface while performing maneuvers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a distance between the slide and step board that exceeds the thickness of the two boards in the elevated deck snowboard of Dykema, as taught by Andrew.

#### ***Allowable Subject Matter***

7. Claims 1-9, 11-14, 16 and 18-24 are allowed.

#### ***Examiner's Comments***

8. The amendment (paper 20) has overcome all claim rejections made in the last Office Action (paper 15).

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9. Since only two outstanding issues remain, the 185 rejection of all claims, and the 103 rejection of claim 25, the Examiner attempted to resolve these outstanding issues with the Applicant's representative, Joseph Carrier, by telephone on or about 4-1-04. However, the result of this conversation was that the 185 rejection, in particular, did not appear to be "resolvable" in a timely matter. Therefore, another office action was deemed necessary.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Bobrowicz – teaches an elevated deck snowboard

B) Lin – teaches a ski-snowboard

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson, can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Bryan Fischmann* 43-4  
**BRYAN FISCHMANN**  
**PATENT EXAMINER**